

NOTIFICATION OF ENHANCEMENT – CLASS-B-MISDEMEANOR DUI

Defendant: _____, Case No. _____

ELEMENTS

41-6a-502(1): A person may not operate or be in actual physical control of a vehicle within this state if the person: (a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .08 grams or greater at the time of the test; (b) is under the influence of alcohol, any drug, or the combination thereof, to degree that renders the person incapable of safely operating a vehicle; or (c) has a blood or breath alcohol concentration of .08 grams or greater at the time of operation or actual physical control.

ENHANCEMENT / PENALTIES

1st Class B Misdemeanor DUI Conviction Within Ten Years 41-6a-503, 505, 518: The court shall order, at a minimum: (a) a jail sentence of 48 consecutive hours, 48 hours compensatory service, or home confinement through the use of electronic monitoring; (b) a screening and an assessment (if it is found appropriate by the screening); (c) an educational series (unless the court orders substance abuse treatment); (d) a \$1335 fine and surcharge; (e) supervised probation if the defendant had a blood alcohol concentration of .16 or higher; and (f) the installation of an ignition interlock device if the defendant was under the age of 21 when the violation occurred (except for violations involving drugs other than alcohol).

2nd Class B Misdemeanor DUI Conviction Within Ten Years 41-6a-503, 505, 518: The court shall order, at a minimum: (a) a jail sentence of 240 consecutive hours, 240 hours compensatory service, or home confinement through the use of electronic monitoring; (b) a screening and an assessment (if it is found appropriate by the screening); (c) an educational series (unless the court orders substance abuse treatment); (d) a \$1520 fine and surcharge; and (e) supervised probation.

3rd DUI Conviction Within Ten Years 41-6a-503, 505: A 3rd DUI conviction within 10 years is a third degree felony. If the court suspends the execution of a prison sentence and places the defendant on probation, the court shall order, at a minimum: (a) a \$2,815 fine and surcharge; (b) a jail sentence of 1,500 hours; (c) a screening and assessment and substance abuse treatment at a program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours; and (d) supervised probation.

Note: 41-6a 509(1): (a) For a DUI committed on or after 7/1/09, the DLD shall: (i) if the person is 21 or older at the time of arrest: (A) for a 1st DUI, suspend the license for 120 days; and (B) for a 2nd or subsequent DUI within 10 years, revoke the license for 2 years; (ii) if the person is under 21 at the time of arrest: (A), (B) for a 1st DUI, suspend the license until the defendant is 21 or for 120 days, whichever is longer, and, if no license, deny the application for a license or learner's permit until the defendant is 21 or for 120 days, whichever is longer; (C), (D) for a 2nd or subsequent DUI within 10 years, revoke the license until the defendant is 21 or for 2 years, whichever is longer, and, if no license, deny the application for a license or learner's permit until the defendant is 21 or for 2 years, whichever is longer. (b) For a DUI committed prior to 7/1/09, the DLD shall suspend the license for the suspension periods in effect prior to 7/1/09 (90-day suspension for 1st DUI, 1-year revocation for 2nd or subsequent DUI within 10 years).

Note: 41-6a-529: A DUI conviction will result in the defendant being classified as an alcohol-restricted driver for the periods prescribed in this section. It is a class B misdemeanor for an alcohol-restricted driver to operate or be in actual physical control of a motor vehicle in this state with any measurable or detectable amount of alcohol in the person's body.

Minimum / Maximum Sentences

Class B Misdemeanor: 0 days to 6 months jail; Amounts listed above to \$1,890 fines and surcharges, plus interest
Third Degree Felony: 1,500 hours jail to 5 years prison; \$2815 to \$9,283 fines and surcharges, plus interest

I understand the foregoing Notification of Enhancement as explained here and as orally explained to me.

_____ (Date) _____ (Defendant)